

Introduced by Senator De León

February 14, 2011

An act to amend ~~Section~~ *Sections 19173 and 19175* of the Government Code, relating to civil service.

LEGISLATIVE COUNSEL'S DIGEST

SB 318, as amended, De León. Civil service: rejected probationer: investigation.

Existing law requires the service of a probationary period under specified circumstances, including when an employee enters the civil service. Under existing law, the probationer may be rejected by the appointing power during the probationary period for reasons relating to the probationer's qualifications, the good of the service, or failure to demonstrate merit, efficiency, fitness, and moral responsibility. ~~Existing law authorizes the State Personnel Board, at the request of a rejected probationer, to investigate the reasons for the rejection and either affirm or modify the action of the appointing power. Under existing law, these provisions do not apply to employees in State Bargaining Unit 5, the California Association of Highway Patrolmen. Existing law requires the State Personnel Board to prescribe rules regarding the time in which a probationer may be rejected and take certain actions in an investigation of the reasons for that rejection. Existing law exempts employees of State Bargaining Unit 5, the California Association of Highway Patrolmen, from these rules and actions of the board, as specified.~~

This bill would delete ~~that exception~~ *these exceptions* relating to members of State Bargaining Unit 5.

Vote: majority. Appropriation: no. Fiscal committee: no.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 19173 of the Government Code is
2 amended to read:

3 19173. (a) Any probationer may be rejected by the appointing
4 power during the probationary period for reasons relating to the
5 probationer's qualifications, the good of the service, or failure to
6 demonstrate merit, efficiency, fitness, and moral responsibility,
7 but he or she shall not be rejected for any cause constituting
8 prohibited discrimination as set forth in Sections 19700 to 19703,
9 inclusive.

10 (b) ~~(1)~~—A rejection during probationary period is effected by
11 the service upon the probationer of a written notice of rejection
12 which shall include: (A) an effective date for the rejection that
13 shall not be later than the last day of the probationary period; and
14 (B) a statement of the reasons for the rejection. Service of the
15 notice shall be made prior to the effective date of the rejection, as
16 defined by board rule for service of notices of adverse actions.
17 Notice of rejection shall be served prior to the conclusion of the
18 prescribed probationary period. The probationary period may be
19 extended when necessary to provide the full notice period required
20 by board rule. Within 15 days after the effective date of the
21 rejection, a copy thereof shall be filed with the board.

22 ~~(2) Effective January 1, 1996, notwithstanding paragraph (1),~~
23 ~~this paragraph shall only apply to state employees in State~~
24 ~~Bargaining Unit 5. A rejection during probationary period is~~
25 ~~effected by the service upon the probationer of a written notice of~~
26 ~~rejection that shall include: (A) an effective date for the rejection~~
27 ~~that shall not be later than the last day of the probationary period;~~
28 ~~and (B) a statement of the reasons for the rejection. Service of the~~
29 ~~notice shall be made prior to the effective date of the rejection.~~
30 ~~Notice of rejection shall be served prior to the conclusion of the~~
31 ~~prescribed probationary period. The probationary period may be~~
32 ~~extended when necessary to provide the full notice period required~~
33 ~~by board rule. Within 15 days after the effective date of the~~
34 ~~rejection, a copy thereof shall be filed with the board.~~

1 ~~SECTION 1.~~

2 *SEC. 2.* Section 19175 of the Government Code is amended
3 to read:

4 19175. The board at the written request of a rejected
5 probationer, filed within 15 calendar days of the effective date of
6 rejection, may investigate with or without a hearing the reasons
7 for rejection. After investigation, the board may do any of the
8 following:

9 (a) Affirm the action of the appointing power.

10 (b) Modify the action of the appointing power.

11 (c) Restore the name of the rejected probationer to the
12 employment list for certification to any position within the class;
13 provided, that his or her name shall not be certified to the agency
14 by which he or she was rejected, except with the concurrence of
15 the appointing power of that agency.

16 (d) Restore him or her to the position from which he or she was
17 rejected, but this shall be done only if the board determines, after
18 a hearing, that there is no substantial evidence to support the reason
19 or reasons for rejection, or that the rejection was made in fraud or
20 bad faith. At the hearing, the rejected probationer shall have the
21 burden of proof. Subject to rebuttal by the rejected probationer, it
22 shall be presumed that the rejection was free from fraud and bad
23 faith and that the statement of reasons therefor in the notice of
24 rejection is true.